



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Introduce Ordinance of the City Council of the City of Lodi, Adding Section 307 Declaration of Public Nuisance and an Amendment of Section 401.2 Notice and Order, to the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition

MEETING DATE: August 7, 1996

PREPARED BY: Community Development Director

RECOMMENDED ACTION: That the City Council introduce an Ordinance entitled, "An Ordinance of the City Council of the City of Lodi Adding Section 307 Declaration of Public Nuisance, and an amendment of Section 401.2 Notice and Order, to the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition

BACKGROUND INFORMATION: The Community Improvement Manager has identified that the condition of vacant, unsecured structures, and other similar conditions listed within Section 302 of the Uniform Code for the Abatement of Dangerous Buildings, represent a serious and immediate hazard to the community and that a streamlined abatement procedure needs to be implemented to promptly deal with the removal of such hazards. In the development of this abatement procedure, it was determined that code enforcement staff must have the ability to order the securing of a vacant, unsecured structure, or the abatement of other dangerous building conditions that pose an immediate hazard to the health and safety of the general public, to be done within a time period as short as 24 hours, depending on the severity of the condition. Equally important is staff's ability to abate the condition by securing the structure or other appropriate action within the same time frame.

Currently, staff is required to present each individual case before the City Council in order to have it declared a Public Nuisance, and thereby authorize the abatement action. The proposed addition to the Dangerous Building Code, which is attached, will automatically declare any structure found by the Building Official to be maintained as a dangerous building, to be a Public Nuisance, which will allow staff to pursue the abatement forthwith. The amendment to Section 401.2 of the Dangerous Building Code simply clarifies the procedure for the issuance of a Notice and Order to Secure, and the related abatement procedure.

FUNDING: None

Konradt Bartlam
Community Development Director

Prepared by Joseph E. Wood, Community Improvement Manager

KB/JEW/jw

Attachment

APPROVED:

H. Dixon Flynn -- City Manager

PROPOSED ADDITION OF SECTION 307
TO THE
UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS
AUGUST 7, 1996

Section 307, Declaration of Public Nuisance, is added to the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010, to read as follows:

Section 307 Declaration of Public Nuisance. Any structure found by the building official to be maintained as a dangerous building, as defined in section 302 of this code, is hereby declared to be a public nuisance and shall be abated pursuant to the procedures set forth herein. The procedures for abatement herein shall not be exclusive and shall not in any manner limit or restrict the city from enforcing other ordinances or regulations or abating public nuisances in any other manner provided by law.

Summary: *The intent of Section 307 is to declare structures or properties that are deemed dangerous, as defined by Section 302 of the Dangerous Building Code, and which represent a serious and immediate hazard to the community, as Public Nuisances, which then eliminates the need for City Council to review each case individually before staff can take abatement action to eliminate hazardous conditions.*

It should be noted that, although the initial public hearing is being eliminated, any affected party will still have the ability to exercise the right for due process via appeal as established in Section 501 of the Uniform Code for the Abatement of Dangerous Buildings, and at Public Hearing before the City Council when abatement costs are brought forward for consideration, prior to their being placed as a special assessment on the property taxes.

PROPOSED AMENDMENT OF SECTION 401.2
OF THE
UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS

AUGUST 7, 1996

Section 401.2 Notice and Order. The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.
2. A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 302 of this code.
3. A statement of the action required to be taken as determined by the building official.
 - 3.1 If the building official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.
 - 3.2 If the building official has determined that the building or structure must be secured, the order shall specify the general manner in which the structure is to be secured, the type of material to be used for securing and the approved method of fastening said material to the openings in the building or structure. Furthermore, the order shall require that the securing be completed within such time as the building official shall determine is reasonable under the circumstances.
 - 3.3 If the building official has determined that the building or structure poses an extreme hazardous or dangerous condition such that it must be secured immediately, the building official shall attempt to give notice to the record owner of the building, his or her agent or legal representative, by way of personal contact ordering that the building or structure be secured within 24 hours of the issuance of the order. If at the end of the 24 hour period following receipt of the notice the owner, agent or legal representative has not completed the securing of the building or structure in the manner so ordered or, if all diligent attempts to contact the record owner, his or her agent or legal representative have failed, the building official shall be authorized to proceed according to Section 401.2, paragraph 4, of this code.
 - 3.4 If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure all be vacated within a time certain from the date of the order as determined by the building official to be reasonable.
 - 3.5 If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.

Summary: This amendment will add specific procedures for notification in the case of a vacant, unsecured structure. The underlined portions shown above, indicate the text that has been added that constitutes the proposed amendment. Sections 3.4 and 3.5 that follow, are the same text that was originally designated as Sections 3.2 and 3.3, and have been moved down to accommodate the insertion of the amended sections. Please refer to a copy of the original text of Section 402.1, located on the following attachment.

ORIGINAL TEXT OF SECTION 401.2
OF THE
UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS
AUGUST 7, 1996

Section 401.2 Notice and Order. The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.
2. A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 302 of this code.
3. A statement of the action required to be taken as determined by the building official.
 - 3.1 If the building official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.
 - 3.2 If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure all be vacated within a time certain from the date of the order as determined by the building official to be reasonable.
 - 3.3 If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.

ORDINANCE NO. 1637

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI AMENDING CHAPTER 15.28 OF THE LODI MUNICIPAL CODE BY ADDING THERETO SECTIONS 15.28.062 SECTION 307, DECLARATION OF PUBLIC NUISANCE; AND SECTION 15.28.064 AMENDING SECTION 401.2, NOTICE AND ORDER OF THE 1994 UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS, RELATING TO ABATEMENT OF DANGEROUS BUILDINGS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Lodi Municipal Code Chapter 15.28 - Abatement of Dangerous Buildings Code - is hereby amended by adding thereto new Sections 15.28.062 and 15.28.064, relating to Declaration of Public Nuisance and Notice and Order to read as follows:

15.28.062 - Section 307 - Added Declaration of Public Nuisance.

Section 307 Declaration of Public Nuisance, is added to the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010 as follows:

Any structure found by the building official to be maintained as a dangerous building, as defined in section 302 of this code, is hereby declared to be a public nuisance and shall be abated pursuant to the procedures set forth herein. The procedures for abatement herein shall not be exclusive and shall not in any manner limit or restrict the city from enforcing other ordinances or regulations or abating public nuisances in any other manner provided by law.

15.28.068 - Section 401.2 - Amended Notice and Order.

Section 401.2 - Notice and Order, of the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010 is amended as follows:

The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.
2. A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 302 of this code.

3. A statement of the action required to be taken as determined by the building official.
- 3.1 If the building official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.
- 3.2 If the building official has determined that the building or structure must be secured, the order shall specify the general manner in which the structure is to be secured, the type of material to be used for securing and the approved method of fastening said material to the openings in the building or structure. Furthermore, the order shall require that the securing be completed within such time as the building official shall determine is reasonable under the circumstances.
- 3.3 If the building official has determined that the building or structure poses an extreme hazardous or dangerous condition such that it must be secured immediately, the building official shall attempt to give notice to the record owner of the building, his or her agent or legal representative, by way of personal contact ordering that the building or structure be secured within 24 hours of the issuance of the order. If at the end of the 24 hour period following receipt of the notice the owner, agent or legal representative has not completed the securing of the building or structure in the manner so ordered or, if all diligent attempts to contact the record owner, his or her agent or legal representative have failed, the building official shall be authorized to proceed according to Section 401.2, paragraph 4, of this code.
- 3.4 If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure all be vacated within a time certain from the date of the order as determined by the building official to be reasonable.
- 3.5 If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.

SECTION 2 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3 - Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 5. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect immediately after its passage and approval.

Approved this ____ day of _____, 1996

DAVID P. WARNER
Mayor

Attest:

JENNIFER M. PERRIN
City Clerk

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State of California
County of San Joaquin, ss.

I, Jennifer M. Perrin, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1637 was introduced at a regular meeting of the City Council of the City of Lodi held _____, 1996 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 1996 by the following vote:

Ayes:	Council Members -
Noes;	Council Members -
Absent:	Council Members -
Abstain:	Council Members -

I further certify that Ordinance No. 1637 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

JENNIFER M. PERRIN
City Clerk

Approved as to Form:

RANDALL A. HAYS
City Attorney